

the Government of the United States has considered that the only question under discussion was the method which should be adopted for ascertaining the amount of the indemnity to be paid under an admitted liability, and it is not surprising that in addition to this question the Imperial German Government now desires to raise questions as to the meaning and effect of the treaty stipulations under which it has admitted its liability.

If the Government of the United States correctly understands the position of the Imperial German Government, as now presented, it is that the provisions of Article 13 of the treaty of 1793 between the United States and Prussia, which is contained in force by the treaty of 1828, justified the commander of the Prinz Eitel Friedrich in sinking the William P. Frye, although making the Imperial German Government liable for the damages suffered in consequence, and that inasmuch as the treaty provides no specific method for ascertaining the amount of indemnity to be paid that question must be submitted to the German prize court for determination.

**U. S. Finds No Justification.**

The Government of the United States on the other hand does not find in the treaty stipulations mentioned any justification for the sinking of the Frye, and does not consider that the German prize court has any jurisdiction over the question of the amount of indemnity to be paid by the Imperial German Government on account of its admitted liability for the destruction of an American vessel on the high seas.

You state in your note of the 7th instant that Article 13 of the above mentioned treaty of 1793 gives the right to the party at war the right to stop the carrying of contraband and to detain the contraband; it follows that if it cannot be ascertained in any other way the stopping of the supply may in the extreme case be effected by the destruction of the contraband and of the ship carrying it.

The Government of the United States cannot concur in this conclusion. On the contrary, the provisions of the treaty provisions do not authorize the destruction of a neutral vessel in any circumstances. The provisions of the treaty prohibit even the detention of a neutral vessel carrying contraband if the master of the vessel is willing to deliver the contraband. Article 13 provides:

*In the case supposed of a vessel stopped for articles of contraband, if the master of the vessel consents to deliver out the goods supposed to be of contraband nature he shall be allowed to do it and the vessel shall not in that case be considered as a prize, nor further detained, but shall be allowed to proceed on her voyage.*

In this case the admitted facts show that, pursuant to orders from the commander of the German cruiser, the master of the Frye undertook to throw overboard the contraband, but that before the work of delivering out the cargo was finished the vessel with the cargo was sunk by order of the German commander.

**German Contentions Opposed.**

For these reasons, even if it be assumed, as your Excellency has done, that the cargo was contraband, your contention that the destruction of the vessel was justified by the provisions of Article 13 does not seem to be well founded. The provisions of the United States law do not seem to be in the question of this case to the destruction of a vessel on the high seas or non-contraband character of the cargo. The Imperial German Government has admitted that this question makes a difference so far as its liability for damages is concerned, and the result is the same as for the justification for the sinking of the vessel. As shown above, if we assume that the cargo was contraband, the master of the Frye should have been allowed to deliver it out, and the vessel should have been allowed to proceed on her voyage.

On the other hand, if we assume that the cargo was non-contraband, the destruction of the vessel is not justified in the circumstances of this case under any accepted rule of international law. Attention is also called to the provisions of Article 12 of the treaty of 1793 between the United States and Prussia, which, like Article 13 of the treaty of 1793, was continued in force by Article 12 of the treaty of 1828. So far as the provisions of Article 12 of the treaty of 1793 apply to the questions under consideration they are as follows:

*If one of the contracting parties should be engaged in war with any other power, the free intercourse and commerce of the subjects of the other party remaining neutral, the neutral party may navigate freely to and from the ports and on the coast of the belligerent parties, free vessels making free goods, inasmuch as all things shall be adjudged free which shall be on board any vessel belonging to the neutral party, although such things belong to an enemy of the other.*

**A Violation of the Treaty.**

It seems clear to the Government of the United States, therefore, that whether the cargo of the Frye is regarded as contraband or as non-contraband, the destruction of the vessel was, as stated in my previous communication on this subject, "a violation of the obligations imposed upon the Imperial German Government and the existing treaty stipulations between the United States and Prussia."

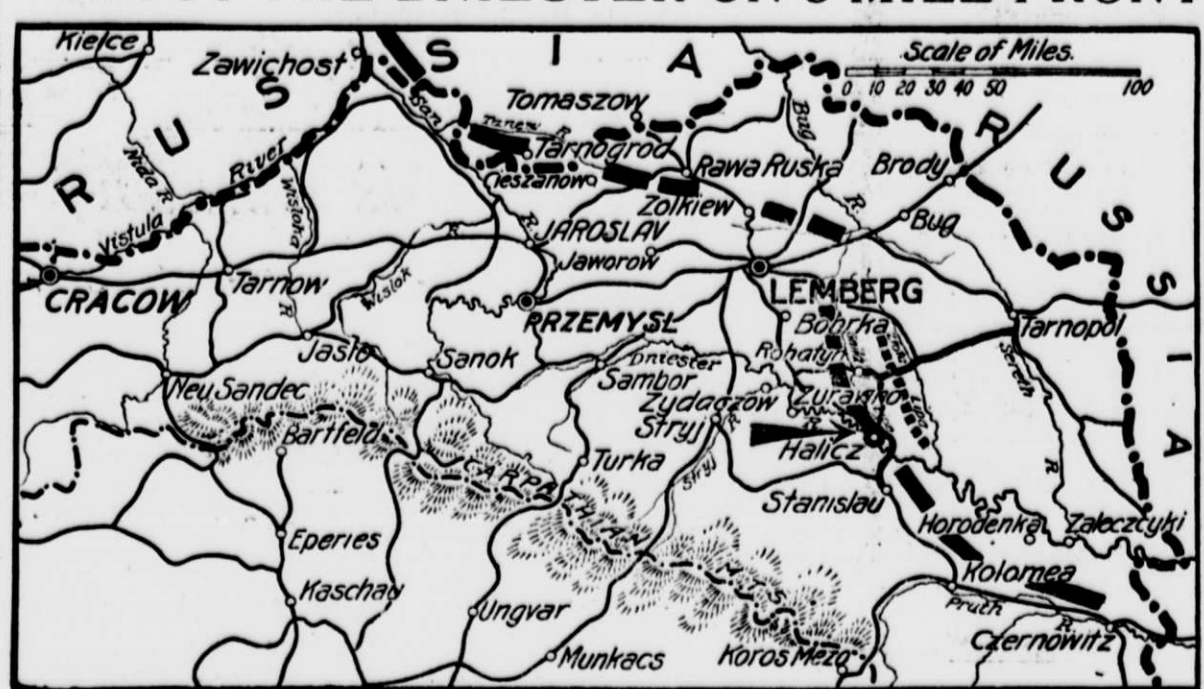
For these reasons the Government of the United States, in view of the contention, which it understands is now made by the Imperial German Government, that an American vessel carrying contraband may be destroyed without liability or accountability beyond the payment of such compensation for damages as may be fixed by a German prize court. The issue thus presented arises from a disputed interpretation of treaty provisions, the settlement of which requires direct diplomatic discussion between the two Governments and cannot properly be based upon the decision of the German prize court, which is in no way conclusive or binding upon the Government of the United States.

Moreover, even if no disputed question of treaty interpretation was involved, the admission by the Imperial German Government of its liability for damages for sinking the vessel would seem to make it unnecessary so far as this claim is concerned to ask the prize court to decide upon the question of the destruction of the ship and cargo, and whether and under what conditions the property sunk was liable to confiscation, when you state in your note dated June 7 are questions which should be decided by the prize court. In so far as the questions relate to the cargo, they are outside of the present discussion because, as pointed out in my previous note to you on the subject of the Frye, the claim under discussion does not include damages for the destruction of the cargo.

The next question between the two Governments is what reparations must be made for a breach of treaty obligations and for the destruction of the vessel which falls within the jurisdiction of a prize court.

In my last note on the subject the Government of the United States required that "full reparation be made by the Imperial German Government for the destruction of the William P. Frye." Reparation necessarily includes an indemnity for the actual

## TEUTONS TAKE HALICZ FROM RUSSIANS; CROSS THE DNIESTER ON 5 MILE FRONT



**DESPATCHES** tell of the Austro-German occupation of Halicz, which means that the last important town of Galicia held by the Russians has fallen. Gen. von Linsingen has succeeded in throwing his men across the Dniester after five days fighting. The Russians have retired to new naturally

Continued from First Page.

Germans along all portions of the eastern line except on the Dniester, where they have retired to new and strong positions on the Gnita Lipa River. The text follows:

In South Poland on the left bank of the Vistula the stubborn battle in the Owarow district continued throughout the night of Saturday and on Sunday. Eventually the enemy was everywhere repulsed with great losses. The attacks of the enemy against the town of Chilian were particularly desperate. In our counter attacks we captured the town of Chilian, and the remnants of the Austrian fourth division. Thrown back to their point of departure the enemy remained passive on Sunday.

In Galicia the enemy's advance on Tomaczow, Belz and Kamionka was repulsed. Before reaching the town of Gnita Lipa River on Saturday, on the front of Bukowina and Halicz we successfully repulsed several attacks by great German forces.

The situation on the other fronts is unchanged.

pecuniary loss sustained, and the Government of the United States takes this opportunity to assure the Imperial German Government that such indemnity, if promptly paid, will be accepted as satisfactory reparation, but it does not rest with the prize court to determine what reparation should be made or what reparation should be considered satisfactory by the Government of the United States.

Your Excellency states in your note of June 7 that in the event the prize court should find that the indemnity accorded with the treaty requirements the German Government would not hesitate to arrange for equitable indemnity. It is also necessary to the Government of the United States that the Government of the United States should be satisfied with the amount of the indemnity which should be agreed upon by the prize court, and the decision of the prize court, even on the question of the amount of indemnity to be paid, would not be binding or conclusive on the Government of the United States.

The Government of the United States also desires to be advised, as expressed in your note that a claim of the American Government unless the claim is presented by it in accordance with the treaty requirements in distinction from an indemnity in accordance with the treaty, and therefore is a matter for adjustment by direct diplomatic discussion between the two Governments, and is in no way dependent upon the action of a German prize court.

For the reasons above stated the Government of the United States cannot recognize the propriety of submitting the question of indemnity to the German prize court for settlement.

The Government of the United States is not concerned with any proceedings which the Imperial German Government may wish to take on other claims of neutral and enemy interested parties, which have not been presented by the Government of the United States, and because of the objections arising from the prize court proceedings in this case it is indispensable, and it does not perturb the decision of the prize court, that the settlement of the present claim pending the consideration of those other claims by the prize court.

The Government of the United States therefore suggests that the Imperial German Government reconsider the subject in the light of these considerations, and because of the objections arising from the prize court proceedings in this case it is indispensable, and it does not perturb the decision of the prize court, that the settlement of the present claim pending the consideration of those other claims by the prize court.

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On the left bank of the Vistula the enemy brought strong forces into battle on the front of Owarow-Zawichost, but this offensive met with no success on the 26th.

In Galicia our troops after stubborn resistance on the front Bobrka-Zarawa, are falling back on the Gnita Lipa. In the Bobrka region we captured, during counter attacks in the course of the 26th, 1,600 prisoners, with forty-six officers, and took two machine guns.

In the Caucasus, in the region of Vostok, a battle in progress with great enemy forces.

**SOUKHOMLINOFF OUT.**

Pollivan succeeds him as Russian Minister of War.

Special Cable Dispatch to The Sun. LONDON, June 28.—It is reported in

**BANKERS CONTROL BIG TEXT BOOK CO.**

Scranton Capitalists Will Manage Finances of International Corporation.

PHILADELPHIA, June 28.—The Public Ledger, under a copyright line, publishes a Scranton, Pa., despatch saying that at the annual meeting of the stockholders of the International Textbook Company arrangements were completed today for the loan of \$500,000 to the company by the assets of the corporation.

It was also decided to turn over the financial management of the corporation to a reorganized board of directors. Six Scranton bankers and business men were elected directors, giving them a majority control of the board.

W. L. Connell, J. K. Griffith, C. D. Simpson and E. A. Selts were dropped from the board. Thomas J. Foster, founder of the International Correspondence Schools; Rufus Foster, vice-president; E. E. Lawall, treasurer; Thomas Jones, a local operator, and B. B. McGargue, a paper manufacturer, were retained on the board.

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For these reasons the Government of the United States, in view of the contention, which it understands is now made by the Imperial German Government, that an American vessel carrying contraband may be destroyed without liability or accountability beyond the payment of such compensation for damages as may be fixed by a German prize court. The issue thus presented arises from a disputed interpretation of treaty provisions, the settlement of which requires direct diplomatic discussion between the two Governments and cannot properly be based upon the decision of the German prize court, which is in no way conclusive or binding upon the Government of the United States.

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In the Caucasus, in the region of Vostok, a battle in progress with great enemy forces.

**CHIEF BUFF A FIREMAN NOW.**

Col. Thurston Made Honorary Officer by Admonition.

LEICESTER, June 28.—Col. Thurston, known to the National Guard as Peggy Thurston, stood up before Fire Commissioner Adams in the latter's office yesterday and heard the Commissioner say: "You are appointed an honorary officer of the Fire Department with the rank of chief of battalion to serve without compensation."

And you are attached to my personal staff," added Chief Kenyon.

Col. Thurston is a fire buff. At most important fires, day or night, he may be seen standing behind Chief Kenyon. The chief salutes. Col. Thurston salutes. That means the flames are under control.

## AVIATOR SHELLS ZEPPELIN BASE

After Friedrichshafen Attack Frenchman Has to Alight in Swiss Territory.

**TWO GERMAN REPULSES.**

Special Cable Dispatch to The Sun. PARIS, June 28.—A French aviator flew over the Zeppelin factories, and shed at Friedrichshafen yesterday morning and succeeded in dropping eight shells "with success." Because of engine trouble the aviator was forced to alight at a point near Rheinfelden. The nature of the damage caused and the extent of it are not specified by the War Office.

For the most part last night and today have been calm. The Germans have delivered attacks east of Metz, but have failed to renew the attacks of last night at the Calonne trench on the heights of the Meuse, which brought them some success.

The day was relatively calm on the entire front. The artillery battle north of the Souchez-Neuville line and at Houdicourt continued. Arras was bombarded by the Germans.

Between the Oise and the Aisne the artillery duel was continued to our advantage.

The afternoon communiqué was as follows:

The Germans last night delivered two attacks against our positions, each of which was repulsed. One was at the trench of Calonne and the other at the trench of the east of Metz.

With these exceptions, there is nothing of importance to report.

**GERMANS WIN AT ARRAS.**

War Office Reports Success on Western Front.

BERLIN, June 28.—The German War Office today announced that the western theatre of war was given out here today:

North of Arras night attacks by the enemy on both sides of the road between Souchez and Aix-Noulette and in the labyrinth, north of Scarpe, were repulsed.

In the western part of the Argonne the French attempted last night to recapture the positions they had lost. Notwithstanding the application of masses of artillery there, the attacks failed completely.

In the Meuse hills an infantry attack extending over a width of two kilometers (one and one-quarter miles) on both sides of Betanville, had the same result. After unusually large losses the enemy fled back into his positions.

At Verdun our troops delivered a surprise attack on the defenders of a small hill east of Metz. Fifty prisoners and one machine gun were taken. The enemy fled back into his positions.

We were especially successful in the southernmost parts of our battle-front against enemy aviators. In an aerial battle over the Argonne flying machines were shot down north of Scarpe, Pass and at Gerardmer. Two further aeroplanes were forced to descend by the action of our anti-aircraft guns.

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Tripoli Rebels Confess They Were Under Command of Sultan's Officers.

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It is the general feeling here that in view of these facts, although there has as yet been no break in the Italian-Turkish diplomatic relations, Italy is justified in displaying hostility toward Turkey without a declaration of war.

The official denial that the Italians will participate in the Dardanelles operation as a result of persistent rumors that both an expeditionary force and warships were to be sent against Constantinople.

The Tribune in commenting on the denial says that the rumors printed yesterday in the Roman newspapers were passed by the censor. This paper finds it impossible to conclude from the denial, which is that in a time of Government denial are justified by the preceding circumstances.

The War Office tonight issued a detailed description of the latest engagements on the whole front, where the Italians are maintaining their gains and steadily adding to their account.

The official statement issued to-night says:

Nothing of importance has occurred along the entire front. In the Caric region mountain artillery at Hanc brought a high peak, is shelling effectively the enemy's camp at Prach and Parapicole. Bad weather is preventing the enemy's aeroplanes from being more active in their bombardment of positions recently occupied by us.

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Declaration Soon, Berlin Says—Abuse at Dardanelles.

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The Pope sent an autograph letter to the Emperor saying Rome must be respected because it is the world's greatest depository and the church is treasury of Christian souvenirs.

**RECALL BEGUN IN NASHVILLE.**

Petitions Circulated to Oust All City Officials.

NASHVILLE, Tenn., June 28.—The discharge of Finance Commissioner Lyle Andrews from office as the result of the loss of the city treasury was followed to-night by a flood of petitions against the whole set of city officials.

Should signatures to the extent of only 1,500 men in Nashville House and the four City Commissioners would be recalled automatically, and this is regarded as an easy task by those having faith in progress. An entirely new set of officials could then be placed in charge of the city in sixty days.

## INTERVIEW FALSE, SAYS PAPAL OFFICIAL

Pontiff Erroneously Quoted, Declares Secretary, Cardinal Gasparri.

**CRITICISM IS DENIED.**

Special Cable Dispatch to The Sun. PARIS, June 28.—La Liberté, the newspaper that printed the alleged interview with Pope Benedict, secured by M. Latrie, says today that the interview was obtained Sunday, June 12, at midday. As June 12 was not Sunday, it seems likely that the paper will be subjected to further charges of inaccuracy.

Cardinal Gasparri, the papal Secretary of State, said in an interview, printed in Rome today and telegraphed to Paris:

"M. Latrie invented entirely many grave assertions. You must remember that a phrase isolated from the context cannot reproduce faithfully a thought, or what is worse, it gives a meaning entirely false."

"For instance, take the quotation regarding hostages in Berlin. What confusion of words! The Pope is not the Jews of Cremona and the Belgian priests, all of whom, according to M. Latrie, were given in the allocation of January 22."

"With regard to the Jews, it was in March that Austria-Hungary sent a protest to the Holy See. The protest was not mentioned, as the Vatican could not condemn Russia on the sole affirmation of Austria-Hungary."

**Heard Priests Were Well Used.**

"The Pope was informed that Italy had taken some parish priests of the towns occupied as hostages, but the Bishop of Cremona, the Austrian priest, the Duke of Abruzzi to aid in the attack on the Dardanelles and to permit the withdrawal of British warships for important work elsewhere."

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The discharge of Andrews was based upon his indictment last week and the fact that he concealed the loss of the city books by advising a subordinate to "keep his mouth shut" about the disappearance of the records.

**POPE'S MAIL HELD UP.**

Austria to Blame, Says Italy, Who Denies Any Interference.

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